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Kevin L. Waugh 47,206  
Name of Attorney/ Registration No.  
Signature of Attorney

Case CM-2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of :  
Michael Stanford Showell, et al. : Confirmation No. 2507  
Serial No.09/889,254 : Group Art Unit: 1571  
Filed July 1, 2002 : Examiner: Preeti Kumar  
For DETERGENT POUCHES :  
COMPRISING A PECTATE  
LYASE

DAE  
9200/1751  
#15  
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FEB 02 2004  
TC 1700

PETITION TO WITHDRAW NOTICE OF ABANDONMENT

Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The Applicants respectfully petition the Commissioner of Patents and Trademarks to withdraw the Notice of Abandonment mailed January 13, 2004.

Statement of Facts

The Notice of Abandonment mailed January 13, 2004, states that the Applicants failed to timely file a proper reply to the Office letter mailed July 7, 2003.

The Notice of Abandonment is in error because the Applicants filed an amendment with a request for a one month extension of time on November 7, 2003. A copy of Applicants' response and request for extension of time is provided herewith as Exhibit "A". A copy of the returned postcard indicating this amendment was received by the Patent Office is also provided herewith as Exhibit "B".

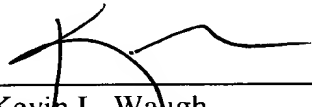
Memorandum

Since the Applicants did submit a proper response, the Notice of Abandonment a is improper and should be withdrawn.

The applicants request that this petition be granted without any fees.

Respectfully submitted,

By



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Kevin L. Waugh  
Attorney for Applicants  
Registration No. 47,206  
(513) 627-7386

January 23, 2004

Customer No. 27752

# **EXHIBIT A**

**CERTIFICATE OF MAILING**

I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Fee Amendment; Commissioner for Patents, P.O. Box 1450; Alexandria, VA 22313-1450 on November 7, 2003.

*Linda G. Drake*

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

Applicant: SHOWELL et al : Paper No:  
Serial No.: 09/889,254 : Group Art Unit: 1751  
Filed: February 1, 2002 : Examiner: Kumar, Preeti  
For: **DETERGENT TABLETS COMPRISING A PECTATE LYASE**

Mail Stop Fee Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is an Amendment in the above-identified application.

- [X] Additional fee is required.  
[X] Also attached: Request for One-Month Extension of Time; Form PTO-2038; and Return Receipt Postcard.

The fee has been calculated as shown below:

	NO. OF CLAIMS	HIGHEST PREVIOUS PAID FOR	EXTRA CLAIMS	RATE	FEE
Total Claims	14	20	0	x \$18 =	\$0.00
Independent Claims	3	3	0	x \$86 =	\$0.00
One-Month Extension Fee					\$110.00
<b>TOTAL FEE DUE</b>					<b>\$110.00</b>

- [X] Please charge the amount of \$110.00 to our Visa credit card. Form PTO-2038 is enclosed.  
[X] The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment, to Deposit Account No. 04-1133, including any filing fees under 37 CFR 1.16 for presentation of extra claims and any patent application processing fees under 37 CFR 1.17.

Respectfully submitted,

By:

*Clare M. Iery*

Clare M. Iery  
Registration No. 51,833  
Attorney for Applicants  
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(513) 977-8192

**CERTIFICATE OF MAILING**

I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Fee Amendment; Commissioner for Patents, P.O. Box 1450; Alexandria, VA 22313-1450 on November 7, 2003.

Linda G. Drake

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

Applicant: SHOWELL et al : Paper No:  
Serial No.: 09/889,254 : Group Art Unit: 1751  
Filed: February 1, 2002 : Examiner: Kumar, Preeti  
For: **DETERGENT TABLETS COMPRISING A PECTATE LYASE**

**REQUEST FOR ONE-MONTH EXTENSION OF TIME**

Mail Stop Fee Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Submitted herewith is an Amendment in response to the Official Action mailed July 7, 2003.

Applicants petition the Commissioner of Patents to extend the time for response to the Official Action dated July 7, 2003 for one-month from October 7, 2003 to November 7, 2003.

Please charge the amount of \$110.00 to cover the cost of the extension to our Visa credit card account. Form PTO-2038 is attached. Any deficiency or overpayment should be charged or credited to Deposit Account No. 04-1133.

Respectfully submitted,

By:

  
Clare M. Iery

Registration No. 51,833  
Attorney for Applicants  
DINSMORE & SHOHL LLP  
1900 Chemed Center  
255 East Fifth Street  
Cincinnati, Ohio 45202  
(513) 977-8192

**CERTIFICATE OF MAILING**

Linda G. Drake

Applicant:	SHOWELL et al	:	Paper No:	
Serial No.:	09/889,254	:	Group Art Unit:	1751
Filed:	February 1, 2002	:	Examiner:	Kumar, Preeti
For:	<b>DETERGENT TABLETS COMPRISING A PECTATE LYASE</b>			

**Remarks** begin on page 5 of this paper.

**Amendments to the Claims:**

The listing of claims will replace all prior versions and listings of claims in this application:

**Listing of claims:**

Claim 1. (Currently Amended) A tablet which comprises a section 1 and a section 2 wherein the section 2 comprises a higher level of pectate lyase than section 1 and wherein the section 1 is compressed at a pressure of about 250 kg/cm<sup>2</sup> to about 2000 kg/cm<sup>2</sup> and the section 2 is compressed at a pressure less than about 350 kg/cm<sup>2</sup>.

Claim 2. (Previously Amended) A tablet according to claim 1 wherein the tensile strength of section 1 is larger than the tensile strength of section 2.

Claim 3. (Currently Amended) A tablet according to ~~claims~~ claim 2 wherein section 2 has a larger exposed surface than section 1.

Claim 4. (Previously Amended) A tablet according to claim 3 wherein section 2 has an exposed surface equal to the exposed surface of the tablet.

Claim 5. (Previously Amended) A tablet according to claim 4 wherein section 2 is applied by a coating process.

Claim 6. (Previously Amended) A detergent tablet according to claim 1 wherein section 1 is a slow dissolving section and section 2 is a rapid dissolving section.

Claim 7. (Currently Amended) A tablet detergent according to claim 1 wherein said tablet comprises said pectate lyase ~~is comprised~~ at a level of from 0.0001% to 2% pure enzyme by weight of the tablet.

Claim 8. (Currently Amended) A detergent tablet according to claim 1 wherein more than 70% of the total amount of the pectate lyase enzyme [[,]] is comprised in section 2 of the detergent tablet.

Claim 9. (Previously Amended) A tablet detergent according to claim 1 wherein said section 2 comprises a buffering material.

Claim 10. (Previously Amended) A method of cleaning a fabric or a dishware with a tablet according to claim 1.

Claim 11. (New) A tablet according to claim 1, wherein the section 1 is compressed at a pressure of about 400 kg/cm<sup>2</sup> to about 2000 kg/cm<sup>2</sup> and the section 2 is compressed at a pressure of about 40 kg/cm<sup>2</sup> to about 300 kg/cm<sup>2</sup>.

Claim 12. (New) A tablet according to claim 1, wherein the section 1 is compressed at a pressure of about 600 kg/cm<sup>2</sup> to about 1200 kg/cm<sup>2</sup> and the section 2 is compressed at a pressure of about 70 kg/cm<sup>2</sup> to about 270 kg/cm<sup>2</sup>.

Claim 13. (New) A tablet which comprises a section 1 and a section 2 wherein the section 2 comprises a higher level of pectate lyase than the section 1 and wherein the section 1 comprises from about 1% to about 40 % by weight of an inorganic perhydrate salt.

Claim 14. (New) A tablet according to claim 13, wherein said tablet comprises said pectate lyase at a level of from 0.0001% to 2% pure enzyme by weight of the tablet and



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**Reply to Official Action of July 7, 2003**

wherein more than 70% of the total amount of the pectate lyase enzyme is comprised in section 2 of the detergent tablet.

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REMARKS

The Official Action dated July 7, 2003 has been carefully considered. Accordingly, it is believed that the changes presented herewith, taken with the following remarks, are sufficient to place the present application in condition for allowance. Reconsideration is respectfully requested.

By the present Amendment, claim 1 has been amended to clarify the limitations therein. Specifically, claim 1 has been amended to recite the compressed pressures of sections 1 and 2 of the tablet. Claims 2, 7 and 8 are amended as to matters of form. Claims 11-14 have been added. Support for claims 11 and 12 may be found in the specification at page 25, lines 6-26. Support for claim 13 may be found in the specification at page 22, line 33-column 23, line 2. Support for claim 14 may be found in claims 7 and 8. It is believed that these changes do not involve any introduction of new matter, whereby entry is believed to be in order and is respectfully requested.

Claims 1-10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Nicholson et al, U.S. Patent No. 5,837,663, in view of Bettiol et al, U.S. Patent No. 6,440,911. The Examiner asserted that Nicholson et al teach a solid dishwashing composition containing a first layer having: a buffering system to deliver a pH in the wash water of about 9.0 to about 11.0, from about 5 weight % to about 90 weight % of a builder, and at least one enzyme selected from the group consisting of a protease, amylase and mixtures thereof; and a second layer having: a peracid and an acidity agent. The Examiner noted that Nicholson et al do not teach a detergent tablet comprising pectate lyase. The Examiner relied on Bettiol et al as teaching cleaning compositions comprising a mannanase and a carbohydrase selected from cellulases, amylases, pectin degrading enzymes and/or xyloglucanases. Therefore, the Examiner asserted that it would have been obvious to one of

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ordinary skill in the art to modify the detergent tablet taught by Nicholson et al by replacing the enzyme with the pectate lyase disclosed by Bettiol et al to arrive at the claimed tablet.

However, as will be set forth in detail below, Applicants submit that the tablet defined by claims 1-9 and the method of cleaning a fabric or a dishware with such a tablet as defined by claim 10 are nonobvious over and patentably distinguishable from the cited combination of references. Accordingly, this rejection is traversed and reconsideration is respectfully requested.

Initially, Applicants submit that the Bettiol et al reference is not proper prior art with respect to the present application. That is, Bettiol et al is a §371 of PCT/US98/11993 filed June 10, 1998 and therefore has an effective U.S. filing date under 35 U.S.C. §102(e) of March 12, 2000. The international application PCT/US98/11993 has a PCT publication date of February 25, 1999. On the other hand, the present application is a §371 of PCT/US99/00800 filed January 14, 1999, prior to the effective filing date and the PCT publication date of Bettiol et al. Thus, the rejection employing Bettiol et al must be withdrawn.

Moreover, Applicants submit that the presently claimed tablets and method of cleaning are nonobvious over and patentably distinguishable from the cited combination of references employing Bettiol et al.

More particularly, claim 1 is directed to a tablet which comprises a section 1 and a section 2. The section 2 comprises a higher level of pectate lyase than section 1. The section 1 is compressed at a pressure of about 250 kg/cm<sup>2</sup> to about 2000 kg/cm<sup>2</sup> and the section 2 is compressed at a pressure less than about 350 kg/cm<sup>2</sup>. Claim 10 is directed to a method of cleaning a fabric or a dishware with a tablet according to claim 1. According to the present

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invention, the claimed tablet "is not only sufficiently robust to withstand handling and transportation, but also at least a portion of which dissolves rapidly in the wash water providing rapid delivery of the pectate lyase enzyme" (see, for example, page 6, lines 5-8).

Applicants find no teaching, suggestion or reference in Nicholson et al of a tablet comprising a section 1 and a section 2, wherein the section 2 comprises a higher level of pectate lyase than section 1 and wherein the section 1 is compressed at a pressure of about  $250 \text{ kg/cm}^2$  to about  $2000 \text{ kg/cm}^2$  and the section 2 is compressed at a pressure less than about  $350 \text{ kg/cm}^2$  as defined by claim 1 or a method of cleaning with such a tablet, as defined by claim 10. Nicholson et al disclose machine dishwashing tablets having at least two layers, the first layer including a builder, one or more enzymes selected from the group consisting of protease, amylase and mixtures thereof in a buffering system and a second layer including a peracid and a source of acidity. However, Applicants find no teaching, suggestion or reference of the claimed detergent tablet in which the tablet "is not only sufficiently robust to withstand handling and transportation, but also at least a portion of which dissolves rapidly in the wash water providing rapid delivery of the pectate lyase enzyme" (see, for example, page 6, lines 5-8). In fact, Nicholson et al teach away from the claimed tablets and method of cleaning as Nicholson et al disclose compaction pressures which are substantially higher than those of the present invention. Specifically, Nicholson et al disclose that the first layer of the solid dishwashing composition is compressed with a compaction pressure from about  $5 \times 10^6 \text{ kg/m}^2$  to about  $3 \times 10^7 \text{ kg/m}^2$ , which corresponds with  $5 \times 10^4 \text{ kg/cm}^2$  and  $3 \times 10^5 \text{ kg/cm}^2$ , and the second layer is compressed with a compaction pressure from about  $1 \times 10^6 \text{ kg/m}^2$  to about  $3 \times 10^7 \text{ kg/m}^2$ , which corresponds with  $1 \times 10^4 \text{ kg/cm}^2$  and  $3 \times 10^5 \text{ kg/cm}^2$  (see column 14, lines 51-62). It is error to find obviousness when a reference diverges from and teaches away from the invention at hand, *In re Fine*, 5 USPQ2d 1596 (Fed. Cir. 1988).

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The deficiencies of Nicholson et al are not resolved by Bettiol et al. Specifically, Bettiol et al disclose enzymatic cleaning compositions. More particularly, Bettiol et al disclose that the combined use of a mannanase and one or more selected carbohydrase provide an outstanding stain removal on key stains even at very low wash temperature and/or low detergent level. However, Applicants find no teaching, suggestion or reference in Bettiol et al of a tablet or a method of cleaning as defined by the present claims, specifically wherein the section 1 is compressed at a pressure of about 250 kg/cm<sup>2</sup> to about 2000 kg/cm<sup>2</sup> and the section 2 containing a higher level of pectate lyase is compressed at a pressure less than about 350 kg/cm<sup>2</sup>.

To establish prima facie obviousness of the claimed invention, all the claim limitations must be taught or suggested by the prior art, *In re Royka*, 180 USPQ 580 (CCPA 1974). Furthermore, references relied upon to support a rejection under 35 U.S.C. §103 must provide an enabling disclosure, i.e. they must place the claimed invention in the possession of the public, *In re Payne*, 203 USPQ 245 (CCPA 1979). In view of the failure of Nicholson et al in view of Bettiol et al to teach, suggest or recognize a tablet comprising a section 1 and section 2, wherein the section 2 comprises a higher level of pectate lyase than section 1 and wherein the section 1 is compressed at a pressure of about 250 kg/cm<sup>2</sup> to about 2000 kg/cm<sup>2</sup> and the section 2 is compressed at a pressure less than about 350 kg/cm<sup>2</sup> or a method of cleaning fabric or dishware with such a tablet, the cited combination of references does not provide an enabling disclosure of the present invention and therefore does not support a rejection of the claims under 35 U.S.C. §103.

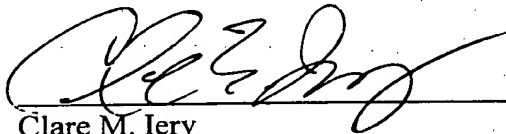
It is therefore submitted that the tablets and method of cleaning defined by the claims are not rendered obvious over Nicholson et al in view of Bettiol et al and are patentably

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distinguishable therefrom, whereby the rejection of 35 U.S.C. §103 has been overcome.  
Reconsideration is respectfully requested.

It is believed that the above represents a complete response to the rejection under 35 U.S.C. §103, and places the present application in condition for allowance. Reconsideration and an early allowance are requested.

Respectfully submitted,



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## **EXHIBIT B**

RECEIVED  
FEB 02 2004  
TC 1700

Serial No.: 09/889,254  
Applicant: SHOWELL et al.  
Title: **Detergent Tablets Comprising a Pectate Lyase**  
Enclosures: Amendment Transmittal; Request for One-Month  
Extension of Time; Amendment; Form PTO-2038; and  
Return Receipt Postcard.

CMI:ld 9116-733 November 7, 2003

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for our files to constitute an acknowledgement by the PTO of receipt on the date stamped of the  
above identified paper.

Serial No.: 09/889,254  
Applicant: SHOWELL et al.  
Title: **Detergent Tablets Comprising a Pectate Lyase**  
Enclosures: Amendment Transmittal; Request for One-Month  
Extension of Time; Amendment; Form PTO-2038; and  
Return Receipt Postcard.

CMI:ld 9116-733 November 7, 2003



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